

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	E	ATTORNEY DOCKET NO.
09/171,049	10/12/98	REZAI		10138

027746
THE PROCTER & GAMBLE COMPANY
PATENT DIVISION
HEALTH CARE RESEARCH CENTER
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MASON OH 45040

IM22/0910

EXAMINER
PRATT, C

ART UNIT	PAPER NUMBER
1771	15

09/10/01

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Mail

Office Action Summary	Application No.	Applicant(s)
	09/171,049	REZAI ET AL.
	Examiner	Art Unit
	Christopher C. Pratt	1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 July 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-19 and 39-41 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-19,39-41 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.

4) Interview Summary (PTO-413) Paper No(s) _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendments and accompanying remarks filed 7/30/01 have been entered and carefully considered. Applicant's amendment is not found to patentably distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-19 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al (5849405) in view of Mukaida et al (EP 612533) and Minto (EP 156160), Early et al (4468428), and Anjur et al (5645542), as set forth in the last action.

Applicant argues that there is nothing in Wang which would lead one of ordinary skill in the art to "glue" the water-insoluble, water-swellable polymer, to a carrier layer by any means. However, Wang specifically teaches that said water-swellable polymer should be "attached" to the carrier layer (col. 16, lines 41-44). Wang also teaches that said water-swellable polymer should be mixed with glues or binders, and that said polymer should not be readily physically separable from said glues and binders (col. 13, lines 30-37). It is the examiner's position that these disclosures alone would suggest to a person having ordinary skill in the art to utilize said glue and binders to attach said

water-swellable polymer to the carrier layer. To further prove this point the examiner included Mukaida in the rejection to show that it is well known in the art to bind water-swellable polymers to a carrier layer via glues and binders. The teachings of Mukaida are not a critical element of this rejection and are used only to show a general level of ordinary skill in the art. It is the examiner's position that even without the teachings of Mukaida it would have been obvious to the skilled artisan that Wang teaches said water-swellable polymers "attached" to the carrier layer with glue or binders.

Applicant asserts that the essential question is: would the use of a resin powder as "glue" render obvious the use of "glue microfibers." However, the essential question in this case is: would the teaching of glues and binders render obvious the use of microfibers? It is the examiner's position that the answer to this question is "yes."

Wang does not specifically teach the use of microfibers as said glue or binder. The examiner has set forth the position that it well known in the art to utilize microfibers as glues and binders. Minto and Early both teach the use of microfibers as binding agents. Applicant argues that Minto does not teach the same particulate material as applicant. However, the examiner does not rely on Minto's teaching of particulate material. Minto is only used to show that microfibers are used as binders. Similarly, the examiner notes that Anjur is not relied upon to teach glue and binder microfibers. Anjur is only used as a teaching of the use of a particular polymer claimed by applicant.

Applicant argues that there is no motivation to combine the microfibers taught by Minto and Early with the web of Wang. The examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in

the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA) 1969. In this case, the skilled artisan would have been motivated to use microfibers as said glue or binder by the desire to increase the water absorbent capacity of Wang's web and utilize a binder with a large surface area, which would promote increased binding and entanglement of the absorbent polymers. These motivations were set forth in previous actions.

Applicant argues that the examiner is using hindsight to reconstruct the claimed invention. However, if the skilled artisan attempted to reduce the teachings of Wang to practice she would be confronted with a gap in the disclosure of Wang. Specifically, Wang never teaches the particular forms said glues and binders should be used in. The skilled artisan would therefore be forced to turn to the prior art to practice Wang. The prior art teaches the use of microfibers as binders for the reasons set forth above. Said rejection is maintained from the last action.

Conclusion

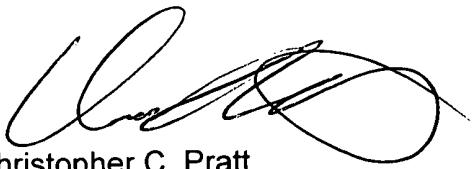
4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Christopher C. Pratt
September 3, 2001



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700